



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JUN 19 2006

Brian M. Heberlig, Esq.
Steptoe & Johnson LLP
1330 Connecticut Avenue, NW
Washington, DC 20036

RE: MUR 5666
MZM Inc. PAC and
Jeanne O'Neil, in her official
capacity as Treasurer

Dear Mr. Heberlig:

On July 1, 2005, the Federal Election Commission notified your clients, MZM Inc. PAC, and Jeanne O'Neil, in her official capacity as Treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, the Commission, on May 24, 2006, found that there is reason to believe MZM Inc. PAC, and Jeanne O'Neil, in her official capacity as Treasurer, knowingly and willfully violated 2 U.S.C. §§ 441b and 441c, provisions of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Statements should be submitted under oath.

In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be

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Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

If you have any questions, please contact Lynn Tran, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Michael E. Toner
Chairman

Enclosures

Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: MZM Inc. PAC and
Jeanne O'Neil in her official
capacity as Treasurer

MUR: 5666

I. INTRODUCTION

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This matter originated with a complaint filed with the Federal Election Commission by Citizens for Responsibility and Ethics in Washington and information ascertained by the Commission in the ordinary course of its supervisory responsibilities. *See* 2 U.S.C. § 437g(a). Based on the complaint and other information, there is reason to believe MZM Inc. PAC and Jeanne O'Neil, in her official capacity as Treasurer, knowingly and willfully violated the Federal Election Campaign Act of 1971, as amended ("the Act"), by making unlawful contributions and expenditures using funds obtained by the threat of job discrimination or financial reprisals and by not examining contributions for evidence of illegality to determine if there was an obligation to refund or disgorge the funds.

II. FACTUAL AND LEGAL ANALYSIS

A. Facts

MZM, a defense contractor based in Washington, D.C., is registered as a Nevada corporation. MZM PAC, a separate segregated fund connected to MZM, filed its initial Statement of Organization with the Commission on October 24, 2001. The current treasurer of MZM PAC is Jeanne O'Neil. Since its inception, MZM PAC has disclosed \$153,955 in contributions from MZM employees. MZM PAC disclosed \$19,605 in contributions from MZM employees for the 2002 election cycle, \$73,350 in the 2004 election cycle, and \$67,000 through the end of 2005. As of January 1, 2006, MZM PAC had cash on hand in the amount of

\$70,892.71. MZM PAC made a donation in this amount to the Intrepid Fallen Heroes Fund on February 13, 2006 and filed a termination report with the Commission that same day. MZM PAC has received notice that its termination request cannot be granted due to its status as a Respondent in this MUR.

The allegations in the complaint are based primarily on a newspaper article in which three unnamed former senior MZM employees stated that MZM and Mitchell Wade routinely forced employees to give political donations. Marcus Stern, *Contractor Who Bought Cunningham's House Made Employees Give Political Contributions*, San Diego Union-Tribune, June 20, 2005. The article quoted a senior former MZM employee as stating, "By the spring of '02, Mitch [Wade] was twisting employees' arms to donate to his MZM PAC. We were called in and told basically either donate to the MZM PAC or we would be fired." *Id.* The employees also reportedly stated that MZM paid employees substantially more than they could make elsewhere, making the contributions a cost of doing business, and that Wade reminded employees before their anniversary with MZM to give a designated amount to MZM PAC. *See id.* The specific amounts were based on seniority within the company and ranged from \$1,000 for senior officials to \$500 for less senior employees. A review of the disclosure reports for the 2002, 2004 and 2006 election cycles indicates that 43 MZM employees also contributed a total of \$112,476 to committees supported by MZM PAC.

Despite a request from MZM PAC and Jeanne O'Neil, in her official capacity as Treasurer, for an extension of time to respond to the allegations detailed in the complaint, MZM PAC and Jeanne O'Neil, in her official capacity as Treasurer, subsequently indicated that they would not submit any response to the complaint.

B. Analysis

Corporations are prohibited from making contributions or expenditures from their general treasury funds in connection with any election of any candidate for federal office. 2 U.S.C. § 441b(a). It is also unlawful for a separate segregated fund to make a contribution or expenditure with money or anything of value obtained by physical force, job discrimination or financial reprisals or the threat of physical force, job discrimination or financial reprisals. *See* 2 U.S.C. § 441b(b)(3)(A).

Government contractors are prohibited from directly or indirectly making “any contribution of money or other things of value, or to promise expressly or impliedly to make any such contribution to any political party, committee, or candidate for public office or to any person for any political purpose.” 2 U.S.C. § 441c(a)(1). Government contractors are subject to the same “specific prohibition, allowance and duty applicable to a corporation, labor organization or separate segregated fund” under 2 U.S.C. § 441b. *See* 2 U.S.C. § 441c(b).

The complaint cites an article in which multiple unidentified former MZM employees that MZM and Mitchell Wade coerced employees to make contributions to MZM PAC. MZM PAC and Jeanne O’Neil, in her official capacity as Treasurer, have not disputed or rebutted the allegations. Respondents are not required to respond to a complaint, and speculative allegations alone will not be sufficient to support a reason to believe finding even where there is no response or a cursory response. However, the allegations here, while anonymously sourced, are quite specific as to the degree of coercion and the amounts expected to be given by the MZM employees.

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If true, the factual circumstances described by the MZM employees in the article would appear to establish a violation of 2 U.S.C. § 441b by MZM PAC and Jeanne O'Neil, in her official capacity as treasurer. Based on the un rebutted allegations, there is reason to investigate whether MZM PAC and O'Neil, in her official capacity as treasurer, violated 2 U.S.C. § 441b(b)(3)(A). Because MZM was a government contractor, violations of 2 U.S.C. § 441b would also result in violations of 2 U.S.C. § 441c. Based on the un rebutted allegations, there is also reason to investigate whether MZM PAC and Jeanne, O'Neil, in her official capacity as treasurer, also violated 2 U.S.C. § 441c.

Moreover, the particularly egregious nature of the alleged conduct, when combined with the fact that Wade has admitted to engaging in complex schemes to corrupt at least one Member of Congress and to influence two other Members, provide a basis for investigating whether these violations were knowing and willful.¹ Accordingly, the Commission finds that there is reason to believe that MZM PAC and Jeanne O'Neil, in her official capacity as treasurer, knowingly and willfully violated 2 U.S.C. §§ 441b(b)(3)(A) and 441c.

¹ To establish a knowing and willful violation, there must be knowledge that one is violating the law. *See FEC v. John A. Dramesi for Congress Comm.*, 640 F. Supp. 985, 987 (D. N.J. 1986). A knowing and willful violation may be established "by proof that the defendant acted deliberately and with knowledge that the representation was false." *US v. Hopkins*, 916 F.2d 207, 214 (5th Cir. 1990). An inference of a knowing and willful act may be drawn "from the defendant's elaborate scheme for disguising" his or her actions. *Id.* at 214-15.